

## REMARKS

The Office Action, mailed June 18, 2007, considered and rejected claims 1-18 and 20-37. Claims 1-18 and 20-37 were rejected under 35 U.S.C. 102(e) as being anticipated by *Andreas et al.* (U.S. Patent No. 6,036,699; hereinafter *Andreas*).<sup>1</sup>

By this paper, claims 1, 4, 9, 12, 15, 20, 22, 23, 28, and 32 have been amended and claim 38-45 have been added.<sup>2</sup> Accordingly, following this paper, claims 1-18 and 20-45 remain pending, of which claims 1, 9, 15, 23, 28, 32, 38, 41, and 43 are the only independent claims at issue.

*Andreas* discloses medical devices and methods for suturing tissue (Abstract). The embodiment identified by the Examiner in Figures 1-2B and 4-8 includes "a guide body 402 and a needle shaft 404. The guide body 402 includes a guide tip 406 at its distal end" to which is attached "[a] flexible needle sheath 426" (Col. 9, ll. 54-56 and col. 10, line 15). The needle shaft 404 extends from the proximal end of the device through the guide tip 406 and into the needle sheath 426, while the needle sheath 426 extends from the guide tip 406 (*See* Figures 1-2B).

Independent claim 1 recites, in part, "a shaft having a proximal end portion, a distal end portion, and a foot receptacle disposed at the distal end portion; a foot disposed within the foot receptacle on the distal end portion of the shaft and spaced apart from the proximal end portion, the foot being movable from within the foot receptacle to a deployed position with the foot extending laterally from the shaft" (emphasis added). Applicants respectfully submit that the configuration of the foot and the foot receptacle in combination with the shaft and flexible guidebody as recited in claim 1 are neither taught nor suggested by *Andreas*. The identified "foot" is not disposed within a foot receptacle and is not "movable from within the foot receptacle to a deployed position with the foot extending laterally from the shaft" as claimed in independent claim 1.

Similar amendments have been made to independent claims 9, 15, 23, 28, and 32. For the same reasons stated above, the inventions claimed in independent claims 9, 15, 23, 28, and

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support for the claim amendments and new claims can be found throughout the specification.

32 are neither taught nor suggested by *Andreas*. Applicants respectfully request withdrawal of the rejection of claims 1-14 and 16-37 under Section 102.<sup>3</sup>

With respect to new independent claims 38, 41, and 43 these recite, in part, "a shaft having a proximal end portion and a distal end portion, said shaft having at least one pin spaced apart from the proximal end portion; a foot having at least one slot, said at least one slot being connected to said at least one pin at said distal end portion of said shaft, said foot being movable with respect to said shaft", "a shaft having a proximal end and a distal end, said shaft having a foot receptacle; a foot slidably received within said receptacle, said foot being movable with respect to said shaft", and "a shaft having a proximal end, a distal end, and a foot receptacle; a foot within said foot receptacle on said distal end of said shaft, said foot being movable with respect to said shaft, said foot having at least one receptacle, said at least one receptacle having at least one slot oriented with respect to a surface of the at least one receptacle", respectively. For similar reasons to those described above, *Andreas* neither teaches nor suggests the inventions claimed in independent claims 38, 41, and 43.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 18th day of October, 2007.

Respectfully submitted,

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<sup>3</sup> Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise.